



File No. 1065.36

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/081,478 Confirmation No. 4351
Applicant : Ricci et al
Filed : February 25, 2002
TC/A.U. : 3738
Examiner : Javier G. Blanco
Docket No. : 1065.36
Customer No.: 27353

For: Microstructured Dual Sided Membrane for Tissue Growth and Regeneration

~~Mail Stop: RCE~~
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION OF HAROLD ALEXANDER OF PRIOR INVENTION
PURSUANT TO 37 C.F.R. 1.131

Dear Sir:

I, Harold Alexander, do hereby declare and aver as follows:

1. I am a co-inventor of the above-referenced patent application.
2. This application is a continuation-in-part of Application Serial No. 09/500,038, filed February 8, 2000, now U.S. Patent No. 6,419,491 B1, which is a continuation-in-part of Application Serial No. 08/996,244, filed December 22, 1997 (now abandoned), which is a continuation of application Serial No. 08/639,712, filed April 29, 1996 (now abandoned), which is a continuation of Serial No. 08/390,805 filed February 15, 1995 (now abandoned), which is a continuation of Serial No. 08/146,790, filed November 2, 1993 (now abandoned). I have been a named inventor in all of these applications going back to the 1993 parent application.
3. The "Inventive Entity" of the 1993 application and its successors, filed in 1995, 1996, and 1997, was John L. Ricci, Charles S. Naiman, and myself.

4. The 1993 parent application represented the end result of approximately four years of research and experimentation by the Inventive Entity. This fact is recited in, and formalized by, a final project report to the National Science Foundation (NSF) dated November 6, 1992, which is attached as Exhibit A herewith. While authored by the principal investigator, Charles S. Naiman, deceased, it reflects the collective work of Dr. Naiman, Dr. Ricci and myself.

5. This NSF final project report has shown that the subject matter directed to the substrate comprising a substantially planar structure having microtextured surfaces, as described in the Specification and in Claim 27 of patent application Serial No. 08/146,790 was conceived and reduced to practice prior to November 6, 1992.

6. As can be further noted from the dates upon the NSF final project report, the actual research was conducted during the period of January through September of 1992, and the grant proposal was submitted in 1991.

7. In view of the above, the conception and reduction to practice of the claimed subject matter of the instant application occurred before the effective date under §102(e) of November 1, 1993 of the U.S. Patent No. 5,607,607 to Naiman et al.

8. With respect to U.S. Patent No. 5,833,641 to Curtis et al., this application bears a §102(e) or §371 date of September 19, 1997. Accordingly, the above statements relative to Naiman et al are applicable to Curtis et al. given that its earliest effective date is subsequent to the filing date of the 1993 parent application (Serial No. 08/146,790) of the instant application.

9. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true and, further, that these statements are made with the knowledge that willful, false statements and

the like so made, are punishable by fine or imprisonment, or both, under 18 United States Code 1001, and that such willful false statements may jeopardize the validity of the application or of any patent issued thereupon.

FURTHER THIS AFFIANT/DECLARANT SAYETH NAUGHT


HAROLD ALEXANDER

12/12/06
DATE

Exhibits:

A. Final Report to NSF of 11/6/92.